

IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF MARYLAND

JAMES DAVIS

\*

Plaintiff

\*

v.

\*

Civil Action 1:09-cv-03167-BEL

CONAGRA FOODS, INC., et al.

\*

Defendants

\*

\* \* \* \* \*

**DEFENDANTS' RESPONSE TO THE COURT'S  
STANDING ORDER CONCERNING REMOVAL**

Defendants ConAgra Foods, Inc. ("ConAgra"), Giant Food, Inc., Giant Food Inc., Giant Food LLC, Giant Food Stores, LLC, Giant of Maryland LLC, Giant of Wicomico LLC, Ahold U.S.A., Inc., Giant Food Stores Inc., Giant of Salisbury, Inc., and Giant of Talbot County, Inc., through undersigned counsel, hereby submit the following Response to the Court's Standing Order Concerning Removal and state as follows:

1. All Defendants were served with a copy of the Summons and Complaint on or after October 27, 2009.

2. Defendant ConAgra Foods, Inc. is not a citizen of the State of Maryland. The remaining defendants are citizens of the State of Maryland, but, for the reasons noted in ConAgra's Notice of Removal and Defendants' Motion to Dismiss Retail Defendants, they have been fraudulently joined in this action. (*See Docket Nos. 1 and 10.*)

3. This action was removed within 30 days after any Defendant was first served with a copy of the Summons and Complaint.

4. Not applicable.

5. All of the Defendants joined in ConAgra's Notice of Removal, although all such remaining Defendants' consent to removal was unnecessary as they have been fraudulently joined in this action. See Moore v. Wyeth Laboratories, 236 F. Supp. 2d 509, 510 n.1 (D. Md. 2002) (citations omitted).

6. A copy of the Court's Standing Order Concerning Removal will be served on counsel for Plaintiff along with a copy of this Response.

Respectfully submitted,

/s/  
Adam H. Garner (Federal Bar #27648)  
McGuireWoods LLP  
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Baltimore, Maryland 21202  
410-659-4400

Counsel for Defendants

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 9th day of December 2009, a copy of the foregoing Defendants' Response to the Court's Standing Order Concerning Removal, as well as a copy of the Court's Standing Order Concerning Removal, was served by first class mail, postage prepaid upon:

Michael C. Robinett  
Simeone & Miller LLP  
1130 Connecticut Avenue, NW  
Suite 350  
Washington, D.C. 20036

Counsel for Plaintiff

/s/  
Adam H. Garner